

REMARKS

Applicants have reviewed and considered the Office Action dated April 28, 2008. In the Office Action, the Examiner rejected claims 1, 3-11, 13 and 32-35 under 35 U.S.C. § 103(a). In response thereto, claims 3, 6-7, 10, 13, and 35 have been amended, claims 1 and 4-5 have been cancelled, and claims 36-38 have been added. In view of the amendments and the following remarks, Applicants request reconsideration and allowance of the pending claims.

Rejection under 35 U.S.C. § 103(a)

Claims 1, 3-11, 13 and 32-35 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent 6,019,745 (Gray) as modified by U.S. Patent 5,359,379 (Kohno).

Independent Claims 35 and 36 are Not Obvious Over Gray in View of Kohno

Claims 35 and 36 are directed to an ampoule comprising, in part, “a surface perpendicular to [a central longitudinal axis] . . . wherein said surface comprises a set of at least four available predetermined recognition element positions; wherein at least two recognition elements are each positioned in one of the at least four predetermined recognition element positions; wherein each of the predetermined recognition element positions is at an angular distance from another position, the angular distance between any two positions being different than the angular distance between any other two positions, said predetermined recognition element positions being asymmetrical relative to the perpendicular surface; and wherein the number of available predetermined recognition element positions is greater than the number of recognition elements.”

Gray, in contrast, teaches a syringe having a data carrier means to carry data relating to a medicament contained, or to be contained, in the syringe. *Gray*, col. 2, ll. 9-13. Referring to FIG. 1, the data carrier means 2c may be provided on the ends of each of the lateral projections 2b of plastics finger grip 2 which is attached to a glass barrel 1 of the syringe. *Gray*, col. 4, ll. 39-55. Thus, at most, Gray teaches a total of two available positions for the data carrier means 2c. As such, Gray does not teach at least four available positions for the data carrier means, and cannot teach an angular distance between the positions being different than the angular distance between any other two positions. Additionally, as may be appreciated with reference to FIG. 3, the available positions 16, 17 are symmetrical with respect to the glass barrel 1.

Kohno does not remedy the disclosure deficiencies of Gray. Kohno teaches a camera system comprising a camera body 1 and an interchangeable lens 10 which may be mounted on the camera body. *Kohno*, col. 3, ll. 11-14. The interchangeable lens 10 comprises six contacts 14a-14f which are secured to the lens as electric connection terminals. The contacts 14a-14f are positioned such that they come into contact with camera side contacts 6a-6f when the lens 10 is mounted to the camera body 1. *Kohno*, col. 3, ll. 20-24. Kohno does not provide alternate teachings regarding the placement of the contacts 14a-14f. Thus, Kohno teaches six available positions for the contacts 14a-14f, each of the six positions being filled by a contact 14a-14f. Furthermore, with reference to Fig. 3, it appears that the angular distance between adjacent contacts positions 14a-14f is the same and that the contact positions 14a-14f are positioned symmetrically with respect to the lens 12. Kohno does not provide teachings of other arrangements. Thus, Kohno does not teach the angular distance between any two contact positions being different than the angular distance between any other two contact positions nor the contacts being positioned asymmetrically.

Moreover, the Gray/Kohno combination does not make obvious the inventions of claims 35 and 36 at least because the combination is improper. Specifically, relative to the present application Kohno is impermissible non-analogous art. The Examiner is respectfully reminded that reliance on a reference under 35 U.S.C. 103 requires that the reference be analogous prior art. MPEP 2141.01(a). MPEP 2141.01(a)(iv) discusses analogy in mechanical arts. While a broad spectrum of prior art may be explored, there must be, at least, a similarity of problems between the arts:

In a simple mechanical invention a broad spectrum of prior art must be explored and it is reasonable to permit inquiry into other areas where one of ordinary skill in the art would be aware that similar problems exist. MPEP 2141.01(a)(iv), quoting *Stevenson v. International Trade Comm.*, 612 F.2d 546, 550 (CCPA 1979) (emphasis added).

As evidenced by the specification of the present application, the present application aims to limit the erroneous recognition and/or use of ampoules for use in injection devices. See e.g., *US Pub. No. 2004/0178255*, para. [0004], [0007]. Kohno, in contrast, is directed to the prevention of damage to power supply terminals of an optical accessory when the optical accessory is not

mounted on a camera body. *Kohno*, col. 1, ll. 46-60. Accordingly, the problems addressed in the present application in no way related to the problems addressed in the *Kohno* reference and, thus, the use of *Kohno* as a reference under 35 U.S.C. 103 is improper.

For at least the foregoing reasons, neither Gray nor *Kohno*, alone or in combination, disclose, teach, or suggest the inventions of claims 35 and 36. Claims 3, 6-11, 13, and 32-34 depend either directly or indirectly from claims 36. Accordingly, these claims are also patentable for at least the reasons presented above and, further, in view of their additional recitations. Reconsideration and allowance are thus respectfully requested.

Independent Claim 37 is Not Obvious Over Gray in View of Kohno

Claim 37 recites all of the claim elements discussed above with respect to independent claim 36. Thus, as an initial matter, claim 37 is not obvious over the Gray/*Kohno* combination for at least the reasons presented above. Additionally, claim 37 recites “at least two reference recognition elements; wherein said available predetermined recognition element positions are arranged on a first circle concentric with respect to the axis and said reference recognition elements are arranged on a second circle concentric with respect to the axis, said first circle having a circumference that is different than the circumference of the second circle.”

As discussed above, *Kohno* teaches an interchangeable lens 10 having six contacts 14a-14f which are secured to the lens as electric connection terminals. *Kohno*, col. 3, ll. 17-21. *Kohno* also teaches a lock slot 15 for locking the interchangeable lens to the camera. With reference to FIG. 3, at best, *Kohno* teaches contacts 14a-14f arranged on a circle and a single lock slot 15 positioned radially outside the circle. Thus, even assuming that lock slot 15 could be properly characterized as a reference recognition element, which it cannot, *Kohno* does not teach at least two recognition elements and at least two reference recognition elements. Moreover, as the multiple reference recognition elements themselves define the circle they are arranged about, a single element, such as lock slot 15, cannot be arranged on a circle, as recited in claim 37.

For at least the foregoing additional reasons, neither Gray nor *Kohno*, alone or in combination, disclose, teach, or suggest the invention of claim 37.

Conclusion

This response is being submitted on or before October 5, 2008, and a one-month extension of time until that date is requested. Also, a Request for Continued Examination (RCE) is being submitted herewith. The fees for the extension and RCE should be charged to Deposit Account No. 04-1420. It is believed that no additional fees are due in connection with this filing. However, the Commissioner is authorized to charge any additional fees, including extension fees or other relief which may be required, or credit any overpayment and notify us of same, to Deposit Account No. 04-1420.

The application now stands in allowable form, and reconsideration and allowance are respectfully requested.

Respectfully submitted,

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